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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

12 WILLIAM O. GILLEY, et al.,

13 Plaintiffs,

14 v.

14 ATLANTIC RICHFIELD CO., et al.,

15 Defendants.

Case No. 98cv132 BTM (AJB)

ORDER RE INCENTIVE AWARDS

16 Plaintiffs have renewed their motion for incentive awards [Doc. 227]. Plaintiffs had
17 previously asked for \$5,000 incentive awards payable out of the settlement fund—a request
18 the Court denied because Plaintiffs had not supported their request with evidence they had
19 actually worked on the case. And given that this suit had been dismissed on the pleadings,
20 the Court also doubted whether it should incentivize plaintiffs for bringing an unsuccessful
21 lawsuit.

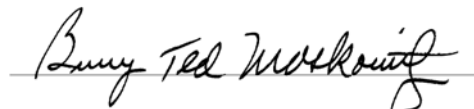
22 Plaintiffs have now supplemented their motion with evidence that they helped litigate
23 this case. The evidence shows that Plaintiffs William Gilley, Dennis DeCota and Patrick
24 Palmer actively participated in the litigation, and because of their business ties to some
25 Defendants, their participation was risky. Moreover, the Court agrees with Plaintiffs that this
26 was a close case—indeed, a Ninth Circuit panel at first reversed the Court’s dismissal of this
27 case, but later affirmed it—and so the concern about incentivizing unsuccessful litigation is
28 low. Plaintiffs’ work also succeeded in creating a \$525,000 settlement fund. For these

1 reasons, the Court believes it is appropriate to pay a modest incentive award to Plaintiffs.
2 \$5,000 is a reasonable award. *Hopson v. Hanesbrands, Inc.*, No. 08cv844, 2009 WL
3 928133, at *10 (N.D. Cal. April 3, 2009) ("In general, courts have found that \$5,000 incentive
4 payments are reasonable.") (citing *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 463 (9th
5 Cir. 2000)).

6 The Court therefore **AWARDS** \$5,000 each to (1) Della Gilley, as representative of
7 the William O. Gilley estate, (2) Dennis DeCota, and (3) Patrick Palmer, which should be paid
8 out of the settlement fund. The funds may be paid to Plaintiffs' counsel, Krause Kalfayan
9 Benink & Slavens, LLP, for distribution to the three plaintiffs.

10 **IT IS SO ORDERED.**

11 DATED: September 1, 2010

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14 Honorable Barry Ted Moskowitz
15 United States District Judge
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